

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CIVIL MISCELLANEOUS JURISDICTION No.360 of 2021**

---

1. Shiv Narayan Yadav Son of Late Ram Parikshan Yadav Resident of Village- Rambag Dahivat, P.O.- Salempur, P.S. and Anchal- Pandaul, District- Madhubani (Bihar).
2. Roop Narayan Yadav Son of Late Ram Parikshan Yadav Resident of Village- Rambag Dahivat, P.O.- Salempur, P.S. and Anchal- Pandaul, District- Madhubani (Bihar).

... .. Petitioner/s

Versus

1. Madhu Yadav Son of Late Mauje Yadav Resident of Village- Madhopur, Tole- Rambag, P.S. Pandaul, District- Madhubani (Bihar). PIN- 847234.
2. Suresh Yadav Son of Late Mauje Yadav Resident of Village- Madhopur, Tole- Rambag, P.S. Pandaul, District- Madhubani (Bihar). PIN- 847234.
3. Ram Prakash Yadav Son of Late Anant Yadav Resident of Village- Sohrai, P.S.- Sakri, Distt.- Madhubani. At present- resident of Village- Khutwara, Ward No. 14, P.O.- Kabadia, P.S.- Darbhanga, Distt.- Darbhanga.
4. Ramashish Yadav Son of Late Anant Yadav Resident of Village- Sohrai, P.S.- Sakri, Distt.- Madhubani. At present- resident of Village- Khutwara, Ward No. 14, P.O.- Kabadia, P.S.- Darbhanga, Distt.- Darbhanga.
5. Anurag Devi W/o Late Ram Awtar Yadav Resident of Village- Sohrai, P.S.- Sakri, Distt.- Madhubani. At present- resident of Village- Khutwara, Ward No. 14, P.O.- Kabadia, P.S.- Darbhanga, Distt.- Darbhanga.
6. Lalan Yadav S/o Late Ram Awtar Yadav Resident of Village- Sohrai, P.S.- Sakri, Distt.- Madhubani. At present- resident of Village- Khutwara, Ward No. 14, P.O.- Kabadia, P.S.- Darbhanga, Distt.- Darbhanga.
7. Anar Devi W/o Jhari Lal Yadav (D/o Late Ram Awtar Yadav) Resident of Village- Sohrai, P.S.- Sakri, Distt.- Madhubani. At present- resident of Village- Khutwara, Ward No. 14, P.O.- Kabadia, P.S.- Darbhanga, Distt.- Darbhanga.

... .. Respondent/s

---

**Appearance :**

For the Petitioner/s : Mr. Shashi Nath Jha, Advocate  
For the Respondents : Mr. Ratanakar Jha, Advocate

---

**CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI**  
**ORAL JUDGMENT**

**Date : 29-06-2022**

Heard learned counsel for the parties.



2. In the instant petition, petitioners have prayed for the following relief/reliefs:

“(i) Quashing/setting-aside the impugned order dated 09.07.2019 (Annexure-9) passed by the learned Sub-Judge-Ist, Madhubani in Title Suit No. 202 of 2010 (Madhu Yadav & another Vs. Ram Prakash Yadav & others), whereby and whereunder the petitioner of the plaintiffs’ dated 05.07.2021 (Annexure-7) has been allowed and they have been permitted to get repaired their alleged Phoos house ( Jhopari ) and to erect their water pump thereat.

(ii) Rejecting the plaintiffs’ petition dated 05.07.2021 (Annexure – 7) as the same was not maintainable in the eyes of law, because in a suit for specific performance of contract there is no scope for issuance of any order and/or direction for constructing/making repair of the House, situated over the suit land.

(iii) Holding and declaring that the learned Sub-Judge exceeded from his jurisdiction while passing the impugned order (Annex-9), as the plaintiffs themselves admit in their plaint (Annex – 1) that they are not title – holders of the suit land, and they have sought direction from the learned court in the instant suit to direct the defendant no. 1 to execute the sale deed in their favour.

(iv) Holding and declaring that the impugned order (Annex-9) is arbitrary, unreasonable, and also without



jurisdiction as the alleged possession of the plaintiffs over the suit land itself is unauthorized, illegal and forceful.

(v) Granting any other relief/reliefs for which the petitioners may be found entitled to.”

3. Pursuant to the impugned order the respondents have undertaken certain repairs/construction in the subject land. According to the petitioner, it is contrary to the impugned order. If it is contrary to the impugned order, in that event, petitioners have certain remedy before the Trial Court.

4. Accordingly, no interference is called for in respect of the impugned order and petition stands dismissed, reserving liberty to resort appropriate remedy in respect of any deviation on behalf of the respondents in respect of the impugned order.

**(P. B. Bajanthri, J)**

GAURAV S./-

|                   |            |
|-------------------|------------|
| AFR/NAFR          |            |
| CAV DATE          |            |
| Uploading Date    | 01.07.2022 |
| Transmission Date |            |

